

Application. No. 10/092,145  
Amendment dated October 13, 2004  
Reply to Office Action of June 17, 2004

#### REMARKS/ARGUMENTS

Applicant hereby affirms the verbal election, with traverse, of the claims of Group 1 (claims 1 - 10) made telephonically by David Banner, Agent for Applicant on April 8, 2004.

Reconsideration of the above-identified application is respectfully requested in view of the foregoing amendments and the following remarks. Claims 11 - 20 have been withdrawn from consideration. Claims 3 - 7 and 9 - 10 have been cancelled. Claims 1, 2, and 8 have been amended. Claims 1, 2, 8, and 10 - 20 remain in the case.

The elected claims of the instant application are drawn to a method for improving the performance of membrane-electrode assembly (MEA) of a PEM or similar fuel cell by treating the electrodes with steam or another hot solution prior to bonding the membrane to the electrode assembly.

Claims 1 - 7 and 9 - 10 were rejected under 35 U.S.C. §112, first paragraph, for failing to provide enablement for

Application. No. 10/092,145  
Amendment dated October 13, 2004  
Reply to Office Action of June 17, 2004

aqueous solutions at temperatures just above room temperature in the instant specification. The cancellation of claims 3 - 7 and 9 - 10 renders their rejection under 35 U.S.C. §112, first paragraph, moot. All temperatures referenced to room temperature have been deleted from remaining claims 1, 2, and 8, thereby overcoming their rejection under 35 U.S.C. §112, first paragraph.

Claims 1 - 10 were rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out the subject matter the Applicants regard as the invention.

The preamble of claim 1 has been amended to overcome ambiguity regarding what fuel cell components may be hydrated in accordance with the present invention. Claims 2 and 8 have been amended to indicate that at least one of the components (i.e., electrodes, CCMS, and MEAs) may selectively be hydrated. These amendments eliminate the conflict between the connective "or" originally used in the preamble of claim 1 and the connective "and" originally used in the claims depending therefrom. The rejection of claims 1 - 10 under 35 U.S.C. §112, second paragraph, is overcome by these amendments.

Application. No. 10/092,145  
Amendment dated October 13, 2004  
Reply to Office Action of June 17, 2004

Claims 3 - 7 and 9 - 10 have been cancelled rendering their rejection under 35 U.S.C. §112, second paragraph, moot.

Claims 1, 3, 4, and 7 - 10 were rejected under 35 U.S.C. §102(b) as anticipated by United States Patent No. 6,174,337 for METHOD OF CONSTRUCTION OF CHEMICAL CELL DEVICE USING CAPILLARY TUBING AND OPTIONAL PERMSELECTIVE POLYMERS, issued January 16, 2001 to Richard L. Keenan. Claims 3, 4, 7, and 9 - 10 have been cancelled thereby rendering their rejection moot under 35 U.S.C. §102(b). Claim 1 has been amended to incorporate the subject matter of claim 5, a claim not rejected over KEENAN. The amendment of claim 1 is believed to overcome its rejection under 35 U.S.C. §102(b) over KEENAN. Likewise, the rejection of claims 2 and 8 which depend therefrom is now also believed overcome.

Claims 1, 3 - 7 and 9 were rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 5,985,477 for POLYMER ELECTROLYTE FOR FUEL CELL, issued November 16, 1999 to Katsuhiko Iwasaka et al. Claims 3 - 7 and 9 have been cancelled thereby rendering their rejection under

Application. No. 10/092,145  
Amendment dated October 13, 2004  
Reply to Office Action of June 17, 2004

35 U.S.C. §102(b) over IWASAKI et al. moot. While claim 5 was rejected over IWASAKI et al., this rejection appears to be in error as IWASAKI et al. fail to teach or suggest an organic component in the aqueous solution used for hydrating electrodes or membranes. Applicants believe, therefore, that the inclusion of the subject matter of claim 5 in independent claim 1 overcomes its rejection under 35 U.S.C. §102(b) over IWASAKI et al.

Claims 1 - 4 and 7 - 9 were rejected under 35 U.S.C. §102(e) as being anticipated by published United States Patent Application No. 2001/0042682 for ELECTRODE AND ELECTROCHEMICAL CELL FOR WATER PURIFICATION, published November 22, 2001 upon application by Oleh Wares et al. Claims 3 - 4, 7, and 9 have been cancelled thereby rendering moot their rejection over WARES et al. The subject matter of claim 5, a claim not rejected over WARES et al., has now been included in claim 1. This amendment of claim 1 is believed to overcome its rejection under 35 U.S.C. §102(e) over WARES et al. Likewise, claims 2 and 8 which depend from claim 1 are now also believed allowable.

Application. No. 10/092,145  
Amendment dated October 13, 2004  
Reply to Office Action of June 17, 2004

Claims 1 - 4 and 7 - 9 were rejected under 35 U.S.C. §102(e) as being anticipated by published United States Patent Application No. 2002/0061431 for SOLID POLYMER ELECTROLYTIC, A MEMBRANE USING THEREOF, A SOLUTION FOR COATING ELECTRODE CATALYST, A MEMBRANE/ELECTRODE ASSEMBLY, AND A FUEL CELL, published May 23, 2003 upon application by Toru Koyama et al. Claims 3 - 4, 7, and 9 have been cancelled thereby rendering their rejection over KOYAMA et al. moot. The subject matter of claim 5, a claim not rejected over KOYAMA et al. has now been included in claim 1. This amendment of claim 1 is believed to overcome its rejection under 35 U.S.C. §102(e) over KOYAMA et al. Likewise, claims 2 and 8 which depend from claim 1 are now also believed allowable.

Applicants respectfully request that claims 1, 2, and 8 be allowed and the application passed to issue.

Application. No. 10/092,145

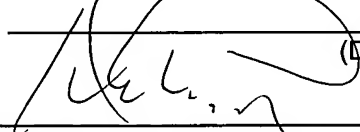
Amendment dated October 13, 2004

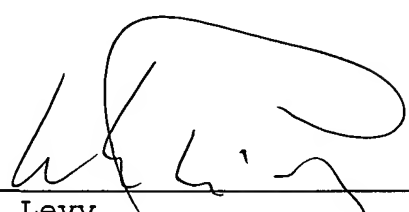
Reply to Office Action of June 17, 2004

Respectfully submitted,

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

On 10/18/04  
 (Date of Deposit)  
10/18/04  
Mark Levy, Reg. No. 29188 (Date)  
Attorney

  
Mark Levy  
Registration No. 29,188  
Attorney for Applicants  
MARK LEVY & ASSOCIATES, PLLC  
19 Chenango Street  
Binghamton, New York 13901  
Phone: (607) 722-6600